

IFW RCE 4

PTO/SB/30 (08-03)

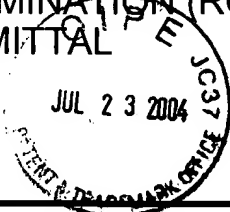
Approved for use through 07/31/2006. OMB 0851-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR CONTINUED EXAMINATION (RCE) TRANSMITTAL

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450



| | |
|------------------------|--------------------|
| Application Number | 09/927,773 |
| Filing Date | August 10, 2001 |
| First Named Inventor | R. O. Potts, et al |
| Art Unit | 1631 |
| Examiner Name | M. A. Moran |
| Attorney Docket Number | 0240.02 |

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.

Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114**

Note: If the RCE is proper, any previously filed unentered and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

- a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
- i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
- ii. ☐ Other _____

b. ☒ Enclosed

- i. ☒ Amendment/Reply iii. ☐ Information Disclosure Statement (IDS)
- ii. ☐ Affidavit(s)/Declaration(s) iv. ☒ Other Postcard; Interview Summary

2. **Miscellaneous**

- a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
- b. ☐ Other _____

3. **Fees**

The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

- a. ☒ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 03-4058
- i. ☒ RCE fee required under 37 CFR 1.17(e) \$ 385.00
- ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17)
- iii. ☐ Other _____
- b. ☐ Check in the amount of \$ _____ enclosed
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

| | | | |
|---------------------|-----------------------|-------------------------------------|--------------|
| Name (Print / Type) | Gary R. Fabian | Registration No. (Attorney / Agent) | 33,875 |
| Signature | <i>Gary R. Fabian</i> | Date | 19 July 2004 |

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

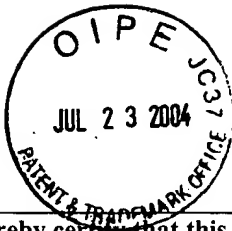
| | | | |
|---------------------|-----------------------|------|--------------|
| Name (Print / Type) | GARY R. FABIAN | Date | 19 July 2004 |
| Signature | <i>Gary R. Fabian</i> | Date | 19 July 2004 |

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing the burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

07/23/2004 YPOLITE1 00000046 034058 09927773

385.00 DA 01 FC:2801



Atty Dkt No. 0240.02
USSN: 09/927,773
PATENT

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the following date:

GARY R FABIAN

19 Jul 2004
Date

Gary R Fabian
Signature

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:
Potts, R. O., et al.

Serial No.: 09/927,773

Art Unit: 1631

Filing Date: 10 August 2001

Examiner: M.A. Moran

Title: METHODS AND DEVICES FOR PREDICTION OF HYPOGLYCEMIC
EVENTS

**RESPONSE AND AMENDMENT ACCOMPANYING REQUEST FOR CONTINUED
EXAMINATION**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This paper is filed in response to the Advisory Action in the above-referenced application, mailed 4 June 2004. On 17 May 2004, applicants filed a Notice of Appeal. On 8 June 2003, the undersigned discussed the application with Examiner Moran in a telephonic interview. At this time, in view of the telephonic interview, applicants are filing a Request for Continued Examination (RCE) rather than pursuing an Appeal to the Board of Patent Appeals and Interferences. Accordingly, because the RCE is being filed before filing of the Appeal Brief and prior to a decision on the Appeal, applicants request that this paper be treated as a request to withdraw the Appeal and to reopen prosecution of the application before the Examiner (37 C.F.R. §1.114(d)).

This paper accompanies a Request for Continued Examination (RCE) (37 C.F.R. §1.114) for the above-referenced application. An authorization to charge Deposit Account No. 03-4058 for the filing fee of \$385.00 (small entity rate) for the RCE accompanies this

paper in the Transmittal Letter. The Notice of Appeal was filed on 17 May 2004. This response and RCE are being filed within two months of the filing date of the Notice of Appeal (17 July 2004 falls on a Saturday, thus the due date becomes Monday, 19 July 2004). No further fees are believed necessary; however, the Commissioner is hereby authorized to charge to Deposit Account No. 03-4058 any fees under 37 C.F.R. §§ 1.16, 1.17 and 1.21 which may be required by this paper, with the exception of the payment of the issue fee.

This paper includes a response, amendments to the claims, and a complete listing of the claims. Also accompanying this paper are the following:

1. An Interview Summary of the undersigned's telephonic interview with the Examiner on 8 June 2003;
2. A transmittal letter and Request for Continued Examination; and
3. A return-receipt postcard.

Reconsideration of the application in view of the following amendments and remarks is respectfully requested. Applicants submit that the present amendment conforms to the revised amendment format requirements. If there are any problems with the format of applicants' amendment, the Examiner is respectfully requested to contact the undersigned.

Introductory Comments

1. Summary of the Office Action.

In the final Office action, dated 24 March 2004:

(a) the Examiner rejected claims 7, 25, and 34 under 35 U.S.C. §112, second paragraph, asserting that the claims are indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. The Examiner asserted that there is insufficient antecedent basis for the limitation “the time interval $n+1$,” and

(b) the Examiner rejected claims 1-7 and 10-36 under 35 U.S.C. §103(a) asserting that the claims are obvious over Kurnik (WO 99/58973) in view of Tamada, et al. (JAMA 282(19):1839-1844, 17 November 1999).

Applicants responded to the final Office action on 17 May 2004.

In the Advisory Action, dated 4 June 2004, the Examiner noted that applicants’ reply overcame the rejections under 35 U.S.C. §112, second paragraph. Accordingly, the only remaining rejection of the claims is the rejection of claims 1-7 and 10-36 under 35 U.S.C. §103(a) in which the Examiner asserts that the claims are obvious over Kurnik (WO 99/58973) in view of Tamada, et al. (JAMA 282(19):1839-1844, 17 November 1999).

This rejection is believed to be overcome in part by the amendments and are otherwise traversed for reasons discussed below.

2. Overview of the Amendments to the Claims.

Claims 1-7 and 10-36 are pending in the application. Claims 1, 3-7, 12, 15, 21, 22, 24, 25, 26, 30, 31, 33, and 34 are amended without prejudice or disclaimer. Amendment of these claims is not intended to be an acquiescence in the Office’s assessment of those claims in the 24 March 2004 Communication or the Advisory Action and applicants expressly reserve the right to bring the subject matter of the original claims again in a subsequent, related application. After entry of this amendment, claims 1-7 and 10-36 are pending.

The amendments to the claims (and complete listing of the claims) are presented herein below (after the signature page) in the section titled “Amendments to the Claims.”

Support for the amendments to claim 1 can be found throughout the specification as originally filed, for example, at the following locations: page 21, lines 13-19; page 22, lines 1-12; page 30, line 30, to page 34, line 23; page 36, line 24, to page 37, line 7; page 42, lines 15-29; and page 43, lines 8-24.

Support for the amendments to claim 5 can be found throughout the specification as originally filed, for example, at the following locations: page 3, lines 8-9; and page 21, lines 13-19.

Support for the amendments to claim 12 can be found throughout the specification as originally filed, for example, at the following locations: page 13, line 29, to page 15, line 16; and page 24, lines 8-19.

Support for the amendments to claim 15 can be found throughout the specification as originally filed, for example, at the following locations: page 21, lines 13-19; page 22, lines 1-12; page 30, line 30, to page 34, line 23; page 36, line 24, to page 37, line 7; page 42, lines 15-29; and page 43, lines 8-24.

Support for the amendments to claim 26 can be found throughout the specification as originally filed, for example, at the following locations: page 21, lines 13-19; page 22, lines 1-12; page 30, line 30, to page 34, line 23; page 36, line 24, to page 37, line 7; page 42, lines 15-29; and page 43, lines 8-24.

Claims 3, 4, 6, 7, 21, 22, 24, 25, 30, 31, 33, and 34 have been amended to provide clear antecedent basis for the term(s) “glucose measurement value(s).”

Accordingly, no new matter has been added by way of this amendment and the entry thereof is respectfully requested.